

- FILE SEW ANNUALLY
- JAN 1 - JUN 30 RETURN DUE SEPTEMBER 1
- JAN 1 - DEC 31 RETURN DUE MARCH 1
- SCHOOL & LIBRARIES FUND => INTERSTATE, & FOREIGN REVENUE
- RURAL HEALTH CARE FUND => INTERSTATE, & FOREIGN REVENUE
- HIGH COST FUND => INTERSTATE & FOREIGN REVENUE
- LOW INCOME FUND => INTERSTATE, & FOREIGN REVENUE

Original Return (Revenue)					Revised Revenue				
	Intrastate	Interstate	Foreign	Total	Intrastate	Interstate	Foreign	Total	
Jan-01	556,825.63	1,150,362.49	1,833.09	1,709,021.21	587,160.21	1,213,031.59	1,932.95	1,802,124.75	
Feb-01	491,763.60	991,380.41	1,786.67	1,484,930.68	250,311.17	504,619.69	909.43	755,840.29	
Mar-01	467,409.28	1,015,304.59	2,222.26	1,484,936.13	476,493.50	1,035,037.30	2,265.45	1,513,796.25	
Apr-01	434,146.51	906,635.66	832.36	1,341,614.53	379,158.53	791,803.32	726.94	1,171,688.78	
May-01	450,806.84	940,688.96	924.98	1,392,420.78	389,536.57	812,837.60	799.26	1,203,173.43	
Jun-01	420,174.00	885,124.98	1,374.98	1,306,673.96	366,426.22	771,901.63	1,199.10	1,139,526.95	
Jul-01	423,914.19	900,746.63	1,095.77	1,325,756.59	225,373.46	478,880.83	582.56	704,836.85	
Aug-01	474,529.41	1,007,586.38	1,616.89	1,483,732.68	582,806.90	1,237,496.11	1,985.83	1,822,288.84	
Sep-01	418,702.28	924,420.56	1,574.84	1,344,697.68	275,721.56	608,744.42	1,037.06	885,503.03	
Oct-01	432,236.79	919,961.72	941.06	1,353,139.57	372,138.90	792,050.91	810.22	1,165,000.03	
Nov-01	358,545.70	747,042.45	872.33	1,106,460.48	322,781.42	672,526.33	785.32	996,093.07	
Dec-01	314,081.63	640,413.24	622.53	955,117.40	268,678.97	547,837.10	532.54	817,048.60	
5,243,135.86					4,496,587.41				
11,029,668.07					9,466,766.84				
15,697.76					13,566.65				
16,288,501.69					13,976,920.89				
Net Revenue after taxes									
				\$ 16,288,501.69					
% of Interstate/International Revenue					67.81%				
Interstate & International Revenue					\$ 11,045,365.83				
Jan-Mar	1,515,998.51	3,157,047.49	5,842.02	4,678,888.02	1,313,964.88	2,752,688.58	5,107.53	4,071,760.99	
Apr-Jun	1,305,127.35	2,732,449.60	3,132.32	4,040,709.27	1,135,121.37	2,476,542.55	2,725.29	3,614,389.21	
Jul-Sept	1,317,145.88	2,832,753.57	4,287.50	4,154,186.95	1,083,901.92	2,325,121.36	3,605.45	3,412,628.73	
Oct-Dec	1,104,864.12	2,307,417.41	2,435.92	3,414,717.45	963,599.29	2,012,414.34	2,128.07	2,978,141.71	
2 Quarter 2002 payment:					2 Quarter 2002 payment:				
Use Oct - Dec 2001 revenue					Use Oct - Dec 2001 revenue				
Total	1,104,864.12	2,307,417.41	2,435.92	3,414,717.45	963,599.29	2,012,414.34	2,128.07	2,978,141.71	
Net Revenue after taxes (Form 499-Q 116a)									
				\$ 3,485,336.00					
% of Interstate/International Revenue					67.81%				
Interstate & Foreign Revenue (Form 499-Q 116b&c)					\$ 2,014,542.41				
1/3 of \$3,485,336 x 2Q01 contribution factor x each program factor									
		Contribution Factors	Allocation Factors			Contribution Factors	Allocation Factors		
Schools & Libraries Program	34,375.43	0.072805	0.406409		19,869.18	0.072805	0.406409		
Rural Health Care Program	483.56	0.072805	0.005717		279.30	0.072805	0.005717		
High Cost Program	39,400.08	0.072805	0.465814		22,773.45	0.072805	0.465814		
Low Income Program	10,324.24	0.072805	0.122060		5,967.46	0.072805	0.122060		
Total Payments					Total Payments				
\$ 84,583.31				2 Quarter 02	\$ 48,889.60 2 Quarter 02				
154,625.17 BDP paid					154,625.17 BDP paid				
70,041.86 adjustment/credits					105,735.57 off				



Universal Service Administrative Company

August 28, 2002

Business Discount Plan, Inc.
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer 499 ID: 814329

Attn: Allison Bloom

RE: 5/11/01, 11/01/01, 02/01/02 Form 499-Q Revision Rejections

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-Q that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the periods of January 1 – March 31, July 1 – September 30, 2001 and October 1 – December 31, 2001. Please note that your April 1, 2002 Form 499-A submission reporting January 1 through December 31, 2001 revenue will true-up your company's May 11, 2001, August 1, 2001, November 1, 2001 and February 1, 2002 quarterly Form 499-Q reports. However, based on the information provided, we are unable to accept the Form 499-Q revision because it was not filed prior to the revision deadlines. Per FCC Form 499-Q instructions on page 8, "revised filings must be made by the filing date for the subsequent 499 filing."

USAC recognizes that you may disagree with our decision. **If you wish to file an appeal, your appeal must be received no later than 60 days after the date of this letter.**

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Revised Form 499-Q Rejection letter and identify the outcome that you request;
- Mail your letter to:
Letter of Appeal
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037
- Appeals submitted by fax, telephone call, and e-mail **will not** be processed

- Provide necessary contact information. Please list the name, address, telephone number, fax ~~number~~, and e-mail address (if available) of the person who can ~~most~~ readily discuss ~~this~~ appeal with USAC.
- Identify the "Legal Reporting Name" and "Filer **499 ID**."
- Explain the **appeal to the USAC**. Please provide documentation to support ~~pur~~ **appeal**.
- **Attach a photocopy of this Revised Form 499-Q** Rejection decision that **you** are appealing.

USAC will review all "letters of appeal" and respond in writing within 90 **days** of receipt thereof.

The response **will** indicate whether USAC:

- (1) agrees with **your** letter of appeal, and approves **an outcome that is different from the Revised Form 499-Q Rejection Letter**; or
- (2) disagrees with **your** letter of *appeal*, and the reasons ~~therefor~~.

If you disagree **with** the USAC response **to your** "letter of appeal," **you may** file an **appeal** with the FCC within 60 days of the date USAC issued its decision in response to your "**Letter of Appeal**." **The FCC** address where you may **direct your** appeal **is**:

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Please be sure to indicate the following information on all communications with the FCC; "Docket Nos. 96-45 and 97-21."

In the alternative, you may write and send **an** appeal letter directly to the **Federal Communications Commission (FCC)**, and **bypass USAC**. **Your letter** of appeal to the FCC must explain **why you** disagree with the USAC decision. **You** are also encouraged to submit **any** documentation that **supports** your appeal. The **FCC** rules governing the appeals process (**Part 54** of Title 47 of the Code of Federal Regulations **54.719 - 54.725**) are available on **the** FCC web **site** (www.fcc.gov).

If you have questions or concerns regarding **this** letter, please *contact* Lisa Tubbs at (973) 884-8116 or **Christy** Doleshal at (973) 560-4428.

Sincerely,

USAC



Universal Service Administrative Company

Christy Dolezal
Associate Manager-
Revenue Administration

August 28, 2002

Business Discount Plan, Inc.
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer 499 ID: 814329

Attn: Allison Bloom

RE: September 1, 2000 FCC Form 499-S Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the **Revised** FCC Form 499-S that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the period January 1 – June 30, 2000. **Based** on the information provided, we are unable to accept the revision because it was not **filed** by January 31, 2001.

The April 1, 2001 FCC Form 499-A which reported January 1 - December 31, 2000 revenue will true up any errors that were made on the 499-S filing. Therefore, there is no need to submit a revised 499-S filing.

Please feel free to contact the Form 499 Help Line at 973-560-4460 or via e-mail at Form499@neca.org with any questions.

Thank you,



Universal Service Administrative Company

Christy Doleshal
Associate Manager -
Revenue Administration

August 28, 2002

Business Discount Plan, Inc.
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer499 ID: 814329

Attn: Allison Bloom

RE: September 1, 1999 FCC Form 499-S Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-S that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the period January 1 - June 30, 1999. Based on the information provided, we are unable to accept the revision because it ~~was~~ not filed by January 31, 2000.

The April 1, 2000 FCC Form 499-A which reported January 1 - December 31, 1999 revenue will true up any errors that were made on the 499-S filing. Therefore, there is no need to submit a revised 499-S filing.

Please feel free to contact the Form 499 Help Line at 973-560-4460 or via e-mail at Form499@neca.org with any questions.

Thank you,



Universal Service Administrative Company

August 28, 2002

Business Discount Plan, Inc.
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer 499 ID: 814239

Attn: Gene Query

RE Form 499-A Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the period January 1 – December 31, 2000. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

USAC recognizes that you may disagree with our decision. **If you wish to file an appeal, your appeal must be received no later than 60 days after the date of this letter.**

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Revised Form 499-A Rejection letter and identify the outcome that you request;
- Mail your letter to:
Letter of Appeal
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037
- Appeals submitted by fax, telephone call, and e-mail will not be processed
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Identify the "Legal Reporting Name" and "Filer 499 ID."

- * Explain the appeal to the USAC. Please provide documentation to support your appeal.
- **Attach** a photocopy of **this** Revised **Form 499-A** Rejection decision that you **are** appealing.

USAC will review all "letters of appeal" and respond in writing within 90 **days** of receipt thereof.

The response will indicate ~~whether~~ **USAC**:

- (1) **agrees** with your letter of appeal, and approves **an** outcome ~~that~~ is **different** from the Revised **Form 499-A** Rejection Letter; or
- (2) **disagrees** with your letter of appeal, **and** the reasons therefor.

If you disagree with the **USAC** response to your "letter of appeal," **you** may file **an** appeal with the **FCC** within **60 days** of the date **USAC** **issued** its decision in response to your "Letter of Appeal." The **FCC** address where **you may** direct your **appeal** is:

Federal **Communications** Commission
Office of the **Secretary**
445 12th street, **SW**
Room **TW-A325**
Washington, DC 20554

please be **sure to** indicate the following information on all communications with the FCC:
"Docket **Nos.** 96-45 and **97-21** "

In the alternative, you may write **and** send **an** appeal letter **directly** to the Federal **Communications** Commission (**FCC**), **and** **bypass** **USAC**. Your ~~letter~~ of appeal to the **FCC** must explain why you disagree **with** the **USAC** decision. **You** are also encouraged to **submit** any documentation that supports **your** appeal. The **FCC** **rules** governing the appeals process (**Part 54** of Title **47** of the **Code** of Federal Regulations **54.719 – 54.725**) are available **on** the **FCC** web site (www.fcc.gov).

If **you** have questions or concerns regarding **this** letter, please contact Lisa **Tubbs** at (973) 884-8116 or Christy **Doleshal** at (973) 560-4426.

Sincerely,

USAC



Universal Service Administrative Company

August 28, 2002

Business Discount Plan, Inc
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer499 ID:814239

Attn: Gene Query

RE: Form 499-A Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 499-A that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the period January 1 – December 31, 1999. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

USAC recognizes that you may disagree with our decision. If you wish to file an appeal, your appeal must be received no later than 60 days after the date of this letter.

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Revised Form 499-A Rejection letter and identify the outcome that you request;
- Mail your letter to:
Letter of Appeal
USAC
2120 L Street, NW, Suite 600
Washington, DC 20037
- Appeals submitted by fax, telephone call, and e-mail will not be processed
- Provide necessary contact information. Please list the name, address, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Identify the "Legal Reporting Name" and "Filer 499 ID."

- Explain the appeal to **the** USAC. Please provide documentation **to** support your appeal.
- **Attach** a photocopy of **this** Revised Form **499-A** Rejection decision that you **are** appealing.

USAC will **review all** "letters of appeal" and **respond in** writing within 90 days **of** receipt **thereof**.

The response will indicate whether USAC:

- (1) agrees **with** your letter of appeal, **and** approves **an** outcome that is different **from** the **Revised Form 499-A** Rejection Letter; or
- (2) disagrees with **your** letter **of** appeal, and the reasons therefor.

If you disagree with the USAC response to your "letter of appeal," you may file **an** **appeal** with the FCC within 60 days of the date USAC issued its decision in response to your **"Letter of Appeal."** The FCC address where you may direct your appeal is:

Federal Communications Commission
Office of **the** Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Please be **sure** to indicate the following information **on all** communications with **the** FCC:
"Docket Nos. 96-45 and 97-21."

In the alternative, you may **write** and send an appeal letter directly to the Federal Communications Commission (**FCC**), **and** bypass USAC. Your letter of appeal **to the** FCC must explain why you disagree with the USAC decision. You are also encouraged to submit **any** documentation that supports your appeal. The FCC rules governing the appeals process (Part **54** of Title **47** of the Code of Federal Regulations **54.719 – 54.725**) are available **on the** FCC web site (www.fcc.gov).

If you have questions or concerns regarding this letter, please contact Lisa Tubbs at (973) 884-8116 or Christy Doleshal at (973) 560-4426.

Sincerely,

VSAC



Universal Service Administrative Company

August 28, 2002

Business Discount Plan, Inc.
One World Trade Center
Suite 800
Long Beach, CA 90831

Filer 499 ID: 814329

Attn: Allison Bloom

RE: Form 457 Revision Rejection

The Universal Service Administrative Company (USAC) has completed a review of the Revised FCC Form 457 that you submitted for the purpose of revising revenue reported by Business Discount Plan, Inc. for the period January 1 – December 31, 1998. Based on the information provided, we are unable to accept the revision because it was not filed within one year of the original submission.

USAC recognizes that you may disagree with our decision. **If you wish to file an appeal, your appeal must be received no later than 60 days after the date of this letter.**

In the event that you choose to appeal the decision, you should follow these guidelines:

- Write a "Letter of Appeal to USAC" explaining why you disagree with this Revised Form 457 Rejection letter and identify the outcome that you request;
- Mail your letter to:
 Letter of Appeal
 USAC
 2120 L Street, NW, Suite 600
 Washington, DC 20037
- Appeals submitted by fax, telephone call, and e-mail **will not** be processed.
- Provide necessary contact information. Please list the name, **address**, telephone number, fax number, and e-mail address (if available) of the person who can most readily discuss this appeal with USAC.
- Identify the "Legal Reporting Name" and "Filer 499 ID."

- Explain the appeal to the USAC. Please provide documentation to support **your** appeal.
- **Attach** a photocopy of this Revised Form **457** Rejection decision that you **are** appealing.

USAC will review all "letters of appeal" and **respond** in writing within 90 **days of** receipt **thereof**.

The response will indicate whether USAC:

- (1) agrees with your ~~letter~~ of appeal, and approves an outcome that is different from the Revised Form **457** Rejection Letter; or
- (2) disagrees ~~with~~ your letter ~~of~~ appeal, and the ~~reasons~~ therefor.

If you disagree with the USAC response to your "letter ~~of~~ appeal," you may file **an** appeal with the FCC **within** 60 days of **the** date USAC issued **its** decision in response to your "Letter of Appeal." The FCC **address** where **you** may direct **your** appeal **is**:

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room **TW-A325**
Washington, DC **20554**

Please be **sure** to indicate the **following** information on all communications **with** the FCC:
"Docket Nos. 96-45 and 97-21."

In the alternative, **you** may write and send **an** appeal letter directly to the **Federal** Communications Commission (FCC), and **bypass** USAC. **Your** letter ~~of~~ appeal to the FCC **must** explain **why** you disagree with the USAC decision. **You** ~~are~~ also encouraged to submit any documentation **that** supports your appeal. The FCC rules governing the appeals process (**Part 54 of Title 47 of the** Code of Federal Regulations 54.719 – **54.725**) are available on the FCC web site (www.fcc.gov).

If **you** have questions or ~~concerns~~ regarding this letter, please contact Lisa Tubbs at (973) 884-8116 or Christy Doleshal (973) 560-4426.

Sincerely,

USAC

633 17th Street, Suite 2700 Denver, CO 80202-3635
303 292 1200 Fax 303 292 1300

MICHAEL L. GLASER
(303) 383-7610
mglaser@lrfllegal.com

October 23, 2002

VIA FEDERAL EXPRESS

Letter of Appeal
Universal Service Administration Company
2120 L Street N.W., Suite 600
Washington, D.C. 20037

Re: Business Discount Plan, Inc., Filer 499ID:814329
Your Decision of August 28, 2002

Gentlemen:

The undersigned counsel represent Business Discount Plan, Inc. ("BDP"), One World Trade Center, Suite 800, Long Beach, California 90831.

BDP hereby appeals the **six (6)** Universal Service Administration Co. ("USAC") Decisions, dated August 28, 2002 (the "August 28 Decisions"), rejecting BDP's reports on revised FCC Form 457, 499-S, 499-A and 499-Q, for the period January 1-December 31, 1998 (FCC Form 457), January 1-June 30, 1999 and January 1-December 31, 1999 (FCC Form 499-A), January 1-December 31, 2000 (FCC Form 499-A), January 1-December 31, 2000 (Form 499-A), and quarterly filings made on May 11 and November 11, 2001, and February 1, 2002, for the periods January 1-March 31, July 1-September 30, and October 1-December 31, 2001 (FCC Form 499 Q). Copies of USAC's Decisions which BDP appeals are attached to this Letter of Appeal as Exhibit 1-6.

Letter of Appeal
Universal Service Administration Company
October 23, 2002
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I. INTRODUCTION

USAC's Decisions refusing to accept BDP's revisions to its revenue reports for the years indicated above are based upon USAC's contention that the revisions were not filed within one year of the original submission (Exhibits 1-3), or are not timely or not filed prior to the revision deadlines (Exhibits 4-6).

The Decisions are arbitrary and capricious and an abuse of USAC's discretion. There is no provision either in the Communications Act of 1934, as amended, 47 U.S.C. § 151, et seq., or the rules and regulations of the Federal Communication Commission ("FCC") governing Universal Service, 47 CFR Part 54, requiring that BDP file revisions to revenues reported for the purposes of calculating contributions within one year of BDP's original submissions, or by any certain time deadline. BDP, therefore, requests that USAC reverse the Decisions, accept BDP's revised FCC Forms 457, 499-A, 499-S and 499-Q for the years indicated above, and issue BDP a refund for the overpayments.

II. FACTS

BDP timely filed its FCC Forms 457, 499-A, 499-S and 499-Q with accompanying worksheets (Telecommunications Reporting Worksheet) reporting its revenues for the years ended December 31, 1998, December 31, 1999, December 31, 2000, and December 31, 2001. On August 5, 2002, BDP filed amended FCC Forms for the years indicated above, only after having just discovered that, through an audit conducted by BDP's independent auditors, BDP

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Universal Service Administration Company
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overstated its revenues and had overpaid the USAC by \$1,016,738.43. In filing its revised reports, BDP explained BDP's original reports had significantly overstated BDP's gross revenues for the periods, because they were based upon incorrect gross revenue information supplied to BDP by Billing Information Concepts, Inc ("BIC"), BDP's billing aggregator responsible for the billing and management of BDP's long distance service. After BDP's independent auditors completed an audit of BDP's unrelated excise and sales tax for the years in question in July 2002, BDP discovered that the revenue reports supplied to BDP by BIC for these years, did not appropriately reduce BDP revenue by deducting substantial adjustments and credits to BDP's customer billing. BDP included with its amended reports filed on August 5, 2002 an analysis of the exact amount owed for the years ending December 31, 1998, 1999, 200, and 2001. See Exhibit 7.

III. USAC'S DECISIONS

USAC's Decisions rejected BDP's revised revenue reports because "they were not filed within one year of the original submission," (Exhibits 1-3) or "not filed prior to the revision deadlines." (Exhibits 4-6). USAC's Decisions, however, did not cite any statutory provision or FCC rule setting forth the requirement that BDP's revisions had to be submitted within one year of the original submission, or any revision deadline, except for a reference to the instructions for completing FCC Form 499-Q, pertaining to quarterly revenue reports for the year 2001.

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October 23, 2002
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IV. USAC'S REJECTION OF BDP'S REVISED REVENUE REPORTS FOR THE YEARS ENDED DECEMBER 31, 1998, 1999, 2001 AND 2002 ARE ARBITRARY AND CAPRICIOUS AND AN ABUSE OF DISCRETION; THE DECISIONS SHOULD THEREFORE SHOULD BE REVERSED AND USAC SHOULD REFUND BDP THE AMOUNT OF OVERPAYMENTS

The Decisions are not supported by any statutory provision in the Communications Act of 1934, as amended (the "1934 Act"), or a rule or regulation of the FCC that governs the structure and operation of USAC and reporting requirements of contributors to Universal Service. Moreover, the USAC has no authority to establish a time period within which contributors must request a refund of overpayments. Thus, USAC's rejection of BDP's Revised Revenue Reports for the years ended December 31, 1998, 1999, 2000, and 2001 are arbitrary and capricious, and an abuse of discretion

A. The Communications Act of 1934, as Amended, Does Not Set Forth Any Statute of Limitations for a Contributor's Revision to Its Revenue Reports to USAC.

In 1996, the Congress substantially amended the 1934 Act, by enactment of the Telecommunications Act of 1996 (the "1996 Act"). In the 1996 Act, Congress enacted Section 254, entitled "Universal Service." In this statutory provision, the Congress provided that every telecommunications carrier providing interstate communications must contribute on an equitable and non-discriminatory basis to a specific, predictable and sufficient mechanisms established by the FCC to preserve and advance universal service. 47 U.S.C. § 254(d). In Section 254, the Congress, however, did not specify any limitation on a telecommunications

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carrier's ability to seek a refund for **an** overpayment for universal service. Instead, the Congress left it to the Commission to formulate rules to implement Section 254. While the 1934 Act contains time limitations as to bringing legal actions, the 1934 Act contains no time limitations applicable to contributors seeking refunds for overpayments for Universal Service. See 47 U.S.C. § 415. In short, there is nothing in the 1934 Act that limits BDP may seek recovery of overpayments to USAC.

B. The FCC Promulgated Part 54 to Implement Section 254 of the Act, But Did Not Prescribe a Time Period for Seeking Refunds for Overpayments for Universal Service. Moreover, USAC Has No Authority *to* Establish Such a Time Period.

In implementing Section 254, the FCC enacted 47 CFR Part 54. Part 54 of the Commission's rules sets forth specific rules for administration of the Universal Service. The FCC appointed USAC as a permanent administrator of the federal Universal Service support mechanisms. 47 U.S.C. § 54.702(a). FCC also specifically described the USAC's functions and abilities. Thus, Part 54 specifically states:

“The Administrator shall be responsible for billing contributors, collecting contributions to Universal Support Mechanisms, and disbursing Universal Support Funds.”

47 CFR § 54.702(b)

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In addition, Part 54 states:

“The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission’s Rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.”

47 CFR § 54.702(d)

Finally, ~~Part~~ 54 specifically requires contributors to file reports of revenues for purposes of determining the amount of payments for Universal Service, and directs USAC to refund overpayments. Thus, ~~Part~~ 54 provides:

“Once a contributor complies with a telecommunications reporting worksheet filing requirements, the Administrator may refund any overpayments made by the contributor, less any fees, interests or costs.”

47 CFR § 54.713.

There is no mention, however, in Part 54 of any time period within which a telecommunications carrier must file revised revenue reports and claim a refund. Instead, Part 54 only provides that USAC has the authority to refund overpayments. While USAC has this authority, USAC **has** been specifically instructed not to *make* policy, interpret unclear provisions of the 1934 Act, or interpret the intent of Congress. Since neither the 1934 Act nor Part 54 provides for a time limitation on a contributor’s ability to **seek** a refund, let alone address my

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Universal Service Administration Company
October 23, 2002
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limitation period, USAC may not, as it has done here, establish such a time period. In its Decisions, USAC has arbitrarily imposed a one-year limitation or other time period on BDP's ability to seek a refund for overpayments. Thus, USAC's Decisions are beyond its authority, and an abuse of its discretion.

The Decisions must therefor be reversed, and USAC must accept BDP's revision to its 1998, 1999, 2000 and 2002 revenue reports, and refund BDP's overpayment of a net \$1,016,738.43 to USAC for Universal Service.

C. USAC's Reliance on Instructions to Complete Report Forms is Misplaced.

USAC has asserted in its Decisions pertaining to BDP's revised report for the year ended December 31, 2000, that BDP's revisions were "not filed prior to the revision deadlines." USAC states that this limitation appears on page 8 of the instructions for relevant FCC Form 499-Q, and therefore, BDP is bound to this time period. For several reasons, USAC cannot legitimately rely on the instructions to FCC Form 499-Q, as establishing a limitation on the period within which BDP may seek a refund for overpayment to the Universal Service. First, the instructions do not constitute an FCC rule because they were never subject to notice and comment as required under the Administrative Procedures Act, 5 U.S.C. 552. Thus, BDP (or, indeed, any other contributor to any mechanism administered by USAC) never had prior notice of this limitation or an opportunity to comment on any proposed time limitation on the filing of revised reports seeking refunds for overpayments. Accordingly, BDP's Fifth Amendment due process right would be